

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UBS AG, LONDON BRANCH,

Plaintiff,

- against -

GREKA INTEGRATED, INC.,

Defendant.

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19 Civ. 10786 (LLS)

ORDER

Upon review of the parties' supplemental briefing, my findings regarding defendant's liability for the remaining categories of damages are as follows:

1. Performance Payments

For the reasons set forth in plaintiff's brief, and undisputed by defendant, defendant is liable for the Performance Payments pursuant to Sections 2.04(a) and 2.09(e) of the Second Lien Credit Agreement. The payments are calculated based on the table provided in Section 1.01 of the Agreement (defining "Performance Payments"). Plaintiff shall present evidence of the quarters in which the Quarterly WTI Price of crude oil has exceeded \$65.00 per barrel to Judge Fox for a final determination of the amount of Performance Payments owed.

2. Legal Fees and Advisory/Collateral Management Fees

Pursuant to Section 9.03(a) of the Credit Agreements, defendant is liable for the legal and advisory/collateral management fees plaintiff has incurred in connection with the enforcement or protection of its rights. Plaintiff's Memorandum

in Support of Its Claim for Interest, Fees and Costs (Dkt. No. 42) and the attached Declaration (Dkt. No. 43) set forth the amounts requested and supporting documents. Judge Fox may review that evidence, and any additional evidence he requires, to determine the reasonable amount of fees owed.

3. Amounts Advanced under the Trustee Loan Agreements
Defendant is not liable for the amounts advanced to the RILP or HVICC Trustees. Those advances of "working capital" do not fit within the class of "Costs and Expenses" defined in or contemplated by Section 9.03(a) of the Credit Agreements, and to hold defendant responsible for those amounts would expand its liability well beyond its intended scope.

Conclusion

Based on this Order and my February 26, 2021 Order (Dkt. No. 68), the parties shall now proceed before Judge Fox for a final calculation of the amounts owed for interest, Administrative Agent Fees and Deferred Closing Fees, Performance Payments, Advisory and Collateral Management fees, and Legal fees and costs.

So ordered.

Dated: New York, New York
April 1, 2021

Louis L. Stanton
Louis L. Stanton
U.S.D.J.